

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL ACTION
v.	:	
EDWARD LEE	:	NO. 07-748-01

**MEMORANDUM AND ORDER**

**Baylson, J.**

**April 25, 2008**

The Court held a hearing on Defendant's Motion to Suppress Evidence on April 14, 2008. The testimony presented by the government showed that two police officers stopped the Defendant, who was driving a motorcycle, for illegal passing. When the officers pulled the Defendant over, the officers who questioned him determined that he was exceptionally nervous and could not produce a valid driver's license for operating a motorcycle. In accordance with the Philadelphia "Live Stop" Law Enforcement Program (which requires that a vehicle, including a motorcycle, be towed to a City pound if the operator does not have a valid driver's license), the officers determined to have the motorcycle impounded under this program.

In accordance with their standard procedure and for their safety, the officers then did a pat-down of the Defendant, which required them to feel the Defendant's body under a thick, leather motorcycle jacket. One officer felt the handle of a gun, and lifting the Defendant's shirt, removed a handgun loaded with ten live rounds of ammunition. This resulted in the Defendant's arrest.

The Court credits the testimony of the officers and finds that the pat-down and the seizure

of the gun were lawful. Having lawfully stopped the motorcycle, the officers are permitted to exercise reasonable investigation, including a pat-down of the driver. See Pennsylvania v. Mimms, 434 U.S. 106 (1977) and United States v. Bonner, 363 F.3d 213 (3d Cir. 2004). Thus, the seizure of the gun was lawful.

**ORDER**

AND NOW, this 25<sup>th</sup> day of April, 2008, it is hereby ORDERED that Defendant's Motion to Suppress (Doc. No. 45) is DENIED.

BY THE COURT:

Michael M. Baylson, J. /s/  
Michael M. Baylson, U.S.D.J.

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